

# In the Supreme Court of the State of Alaska

**John Beardsley, Janet Beardsley,  
Seaport Air Group, and LLC,**  
Appellants,

v.

**Robert Jacobsen, Darlene Jacobsen  
Living Trust, Wings Airline Services,  
and Inc.,**  
Appellees.

Supreme Court No. **S-17190**

## **Order**

Motion for Reconsideration of Order  
Issued on 9/30/2020

Date of Order: **October 14, 2020**

Trial Court Case No. **1JU-09-00982CI**

Before: Bolger, Chief Justice, Winfree, Stowers, Maassen, and  
Carney, Justices

On September 30, 2020, a single justice issued an order on appellants' unopposed motion to extend time to file a cost bill and a motion for attorney's fees. The order granted the motion to file a cost bill but denied as moot the motion for attorney's fees. Though the order did not state the basis of the denial of the motion for extension of time to file a motion for attorney's fees, the reason for the denial is found in Alaska Appellate Rule 508(e): "Attorney's fees shall not be awarded unless [] attorney's fees are provided by statute, case law, or contract . . . ." When the order was issued, the court was unaware of any statute, case law, or contract that would support an award of attorney's fees because the motion for extension of time did not rely on any statute, case or contract.

Appellants have filed a motion for reconsideration of the denial of their motion for extension to file a motion for attorney's fees. Appellants state there is a provision in the parties' contractual agreement that provides for an award of attorney's

fees. Appellants explain that “[w]hile the Court had no reason to know what the basis for the motion would be, appellants had no reason to identify the basis for its fee motion in its unopposed motion for extension of time.” Appellant’s Motion for Reconsideration, p. 2. Appellees oppose the option for reconsideration arguing that the issue of attorney’s fees is premature and must await the outcome of the proceedings on remand to the superior court.

The appellant’s motion for reconsideration is **GRANTED**. At this juncture, all appellants are seeking is permission to file a motion for attorney’s fees. Whether appellants are actually entitled to attorney’s fees will be addressed in their motion for fees and in the appellee’s opposition. It would be unjust to prohibit a party from at least being heard on its request for attorney’s fees on appeal based on contract. Appellate Rule 508(e) expressly provides for such relief.

The appellants’ motion for an extension of time to file a motion for attorney’s fees is **GRANTED**. The motion for attorney’s fees is due on **October 26, 2020**.

Entered at the direction of the court.

Clerk of the Appellate Courts

A handwritten signature in cursive script, appearing to read "m. montgomery", is written over a light gray rectangular background.

Meredith Montgomery

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*John Beardsley, et al. v Robert Jacobsen, et al.*

Supreme Court No. S-17190

Order of 10/14/2020

Page 3